

**Planning Commission  
Staff Report**  
Date: March 15, 2007



Change in zoning from OR-1 to C-1 on property located at 3305 Barbour Lane (Tax Block W004, Lot Number 3), containing 0.69 acres and being in the City of Barbourmeade. In addition, a variance is requested to decrease the required 30-foot setback area to 25 feet along the north property line.

|                           |                                 |
|---------------------------|---------------------------------|
| <b>Case:</b>              | 9-66-06 V                       |
| <b>Project Name:</b>      | Barbour Lane Animal Hospital    |
| <b>Location:</b>          | 3305 Barbour Lane               |
| <b>Owner(s):</b>          | George & Janice Hellman         |
| <b>Applicant:</b>         | Blakary, LLC                    |
| <b>Representative:</b>    | AGR Engineering /Alex Rosenberg |
| <b>Project Size/Area:</b> | 0.69 acres                      |
| <b>Jurisdiction:</b>      | City of Barbourmeade            |
| <b>Form District:</b>     | Neighborhood                    |
| <b>Council District:</b>  | 16 – Kelly Downard              |
| <b>Case Manager:</b>      | Mike Wilcher, Planner II        |

**Request**

The applicant is requesting a change in zoning from OR-1 Office-Residential to C-1 Commercial and a variance of LDC Section (5.3.1 C.5) Table (5.3.2), to decrease the required 30-foot non-residential to residential setback to 25-feet adjacent to R-2 Residential zoned property to the north of the development site.

**Staff Recommendation**

Staff recommends approval of the change in zoning; however, reconfiguration of the site plan to eliminate the requested variance is suggested.

**Case Summary / Background**

**Summary**

The applicant is requesting to rezone the property from OR-1 to C-1 to allow construction of a 4,000 square foot veterinary clinic, as well as 1,800 square feet of general office space. The proposed development will replace an existing vacant house located on the site. In addition, a variance is requested to decrease the required 30-foot setback along the north boundary of the site to 25-feet, which is adjacent to an elementary school property. The site is located within a neighborhood activity center adjacent to C-1 and C-2 zoned lots to the south, an OR-1 zoned lot to the east, an R-2 zoned lot to the north, and R-4 zoned lots to the west. The applicant is dedicating 25 feet of public right-of-way along Barbour Lane as part of the project.

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Veterinary Clinics/Hospitals provide medical care for animals in a soundproofed facility, but are not permitted to provide overnight care facilities such as outdoor boarding pens, which are considered features of commercial kennels. Veterinary Clinics/Hospitals are permitted on a C-1 commercial zoned property; however, a kennel requires a Conditional Use Permit if located in a C-1 commercial zone.

The applicant states that the requested variance is related to the fact that the subject property is adjacent to the driveway of a large institutionally used property. The submitted pre-application plan for the site included both a variance and a waiver request. Staff recommended reconfiguration of the site plan to eliminate both the variance and the waiver, in addition to the technical element revisions. The submitted rezoning proposal eliminated the waiver request and addressed the technical elements; however, the requested 5-foot variance remains part of the plan proposal.

### **Variances**

| <b>Location</b>             | <b>Requirement</b> | <b>Request</b> | <b>Variance</b> |
|-----------------------------|--------------------|----------------|-----------------|
| <b>Side Setback - North</b> | 30'                | 25'            | 5'              |

### **Site Context**

An existing vacant house is located on the site, which is to be demolished. The lot is within an activity center consisting of C-1 and C-2 zoned lots to the south that are used for commercial purposes, including a retail center, convenience store, and a auto service center. The OR-1 zoned lot to the east, as well as the R-4 zoned lots to the west are used for single-family residential, and the R-2 zoned lot to the north is used for institutional purposes consisting of an elementary school.

### ***Land Use / Zoning District / Form District***

|                    | <b>Land Use</b>                   | <b>Zoning</b> | <b>Form District</b> |
|--------------------|-----------------------------------|---------------|----------------------|
| <b>Subject</b>     |                                   |               |                      |
| <b>Existing</b>    | Vacant House                      | OR-1          | Neighborhood         |
| <b>Proposed</b>    | Animal Clinic – Office Space      | C-1           | Neighborhood         |
| <b>Surrounding</b> |                                   |               |                      |
| <b>North</b>       | Institutional – Elementary School | R-2           | Neighborhood         |
| <b>South</b>       | Commercial - Retail               | C-1, C-2      | Neighborhood         |
| <b>East</b>        | Single-Family Residential         | OR-1          | Neighborhood         |
| <b>West</b>        | Single-Family Residential         | R-4           | Neighborhood         |

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## **Project History**

| <b>Project History</b> | <b>Date</b> | <b>Issues addressed / discussion / changes to proposal</b> |
|------------------------|-------------|--|
| Project submittal      | 9/20/06     |  |
| Pre-App. review        | 10/20/06    |  |
| Revision submittal #1  | 11/27/06    |  |
| Revision submittal #2  | 1/12/07     |  |
| LD&T review            | 2/8/07      |  |
| PC Public Hearing      | 3/15/07     |  |

Note: The following information represents staff analysis of the subject property with respect to site inspection/observation, sound planning practices, and adopted policies and regulations of the jurisdiction. Materials submitted by the applicant or their representative prior to the deadline for filing information related to cases docketed for this hearing were reviewed and specifically applied in the staff review of this request. The board is advised to consider this staff report as well as new information introduced at the hearing in formulating their decision.

## **Staff Findings**

### **Relationship to Cornerstone 2020 Comprehensive Plan**

#### ***Community Form/Land Use***

#### **Form Districts / Compatibility / Open Space**

**1.B.3 Neighborhood Form District** This site is located in a Neighborhood Form District, which promotes development and redevelopment of parcels that are compatible with adjacent land uses and enhance unique neighborhood features. Neighborhood Form District design standards are intended to promote the establishment of activity centers at appropriate locations, which integrate a mix of non-residential uses within neighborhoods while providing convenient services to residents.

**3.1, 3.2, 3.4, 3.9, 3.23, 3.28 Compatibility** for the proposed new development should be appropriate in scale, site design, and the pattern of development with adjacent residential areas. When assessing compatibility, the consideration of appropriate building materials is of importance for non-residential development projects. Building design must comply with (5.5.2 A.1) SFD Design Standards; (5.6.1B.1) 60% animating features along street frontage; and (5.6.1C.1) 50% glazing of street wall surface. Consider additional animating features on south and east façades.

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Non-residential expansion into residential areas is discouraged unless the applicant can demonstrate how the adverse impacts of traffic, parking, signage, lighting, noise, odor, and stormwater-runoff will be mitigated. Furthermore, visual impacts of the proposed development should be mitigated when appropriate by protecting the character of residential areas, roadway corridors, and public spaces from visual intrusions. Setbacks, lot dimensions, and building design features should be compatible with adjacent development in the vicinity and should comply with form district guidelines. Ensure that signs are compatible with the pattern of development in the form district and contribute to the visual quality of the area by promoting signage dimensions that are appropriate and adequate for both safety and communication purposes.

**4.1, 4.2, 5.1, 5.6 Open Space and Natural Resources** should be protected through innovative design features, which should provide natural, cultural, and recreational resource protection, safety and public health needs, and compatibility between land uses of differing intensities. In addition, the continued maintenance of open spaces should be provided and the development should respect the natural features of the site with sensitive design elements that avoids changes to the topography while minimizing potential damage and environmental degradation to natural features. Encourage development to avoid wet or unstable soils where the potential for severe erosion problems exist.

### ***Marketplace***

**6.6 Activity Centers** that generate high volumes of traffic should be located at the intersection of minor arterials or on a major arterial with good access to the commercial development where nuisances and activities will not adversely affect adjacent areas. Economic growth and sustainability are positive elements of the community and commercial uses providing neighborhood services are encouraged to be located in established activity centers at the intersection of arterial and collector roadways to decrease potential adverse affects for adjacent residential areas.

### ***Mobility/Transportation***

**7.1, 7.2, 7.3, 7.4, 8.1, 8.11, 9.1 Impact of Developments** should be evaluated for their effect on the street and roadway systems, as well as air quality to ensure that new developments bear and/or share in the costs of the required public facilities and services for the construction of these developments. In addition, street improvements and other transit solutions are required to mitigate impacts of the proposed development. This should include: transit facilities, bicycle lanes, and parking features to encourage efficient transportation systems. Transportation systems should recognize and distinguish specific characteristics of the form district requirements. The internal circulation pattern within a development should be designed to ensure functional connectivity between structures and surrounding areas, as well as provide for the safe and appropriate

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movement of pedestrians, bicyclists, and transit users. The applicant will be dedicating 25 feet of right-of-way along the front property line on Barbour Lane. An existing sidewalk along Barbour lane will connect to a proposed internal walkway to be constructed along a Landscape buffer Area to provide a walking area for animals to the proposed clinic.

### ***Livability/Environment***

**10.1, 11.1, 12.1, 12.2, 13.4, 13.5, 13.6 Impact to Watershed, Water and Air Quality, and Landscape Character** requires that efforts be made to effectively mitigate sources of pollution through measures that reduce traffic and improve water and air quality standards. In addition, methods should be taken to ensure that surface and subsurface areas that have the potential to be used as sources of for water supply systems are protected. **This plan will not have an adverse impact on air quality; however, the applicant will need to provide a permit application to the District if an incinerator is planned on the site.** Consider the impact of traffic from the proposed development on air quality through measures that reduce traffic to improve air quality standards. Ensure appropriate landscape design standards and provide screening, buffering, and tree canopy to mitigate adjacent incompatible uses. The VUA buffer area requirement is 10 feet for the proposed development, which is to contain a VUA of 11,930 square feet. The required 15-foot LBA adjacent to the OR-1 zoned lot and the required 25-foot LBA adjacent to the R-2 zoned lot are to be provided. Furthermore, a 5-foot wide walkway will encroach into part of the 25-foot LBA along the north property line, which is permitted by LDC Section (10.2.4 B).

### ***Relationship to Neighborhood, Small Area, Corridor or Other Plan(s)***

The subject site is located within the boundaries of the Snyder Freeway Corridor study near the Brownsboro Road Interchange. When the study was conducted in 1988, the area was considered sparse in development, but a prime area for future development (p.20).

### **Standard of Review**

Criteria for granting the proposed rezoning:

1. The proposed rezoning complies with the applicable guidelines and policies of Cornerstone 2020; **or**
2. The existing zoning classification is inappropriate and the proposed classification is appropriate; **or**
3. There have been major changes of an economic, physical, or social nature within the area involved, which were not anticipated in Cornerstone 2020, which have substantially altered the basic character of the area.

Criteria for approving variance:

1. The proposed variance will not adversely affect the public health, safety or welfare; **and**

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2. The proposed variance will not alter the essential character of the general vicinity; **and**
3. The proposed variance will not cause a hazard or a nuisance to the public; **and**
4. The proposed variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

In making these findings, you must consider whether:

- (a) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone;
- (b) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
- (c) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

**Site Inspection Committee Report Comments:**

1. Consider alternative outdoor seating for the animal clinic.
2. Provide color renderings of design proposal in respect to neighbors.
3. Clarify location of crossover and access agreements.

**Notification**

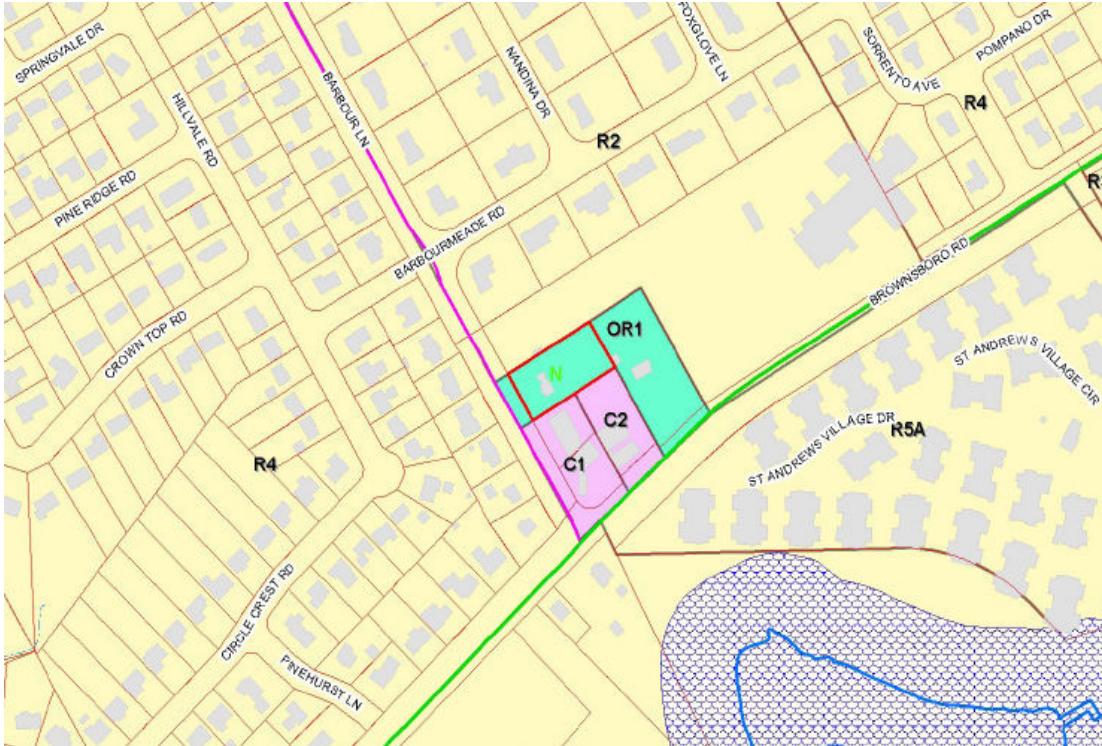
The following forms of notification were provided pertaining to this proposal:

**Notification**

| <b>Date</b> | <b>Description</b>       | <b>Recipients</b>   |
|-------------|--------------------------|---|
| 2/13/07     | Notice of Public Hearing | Adjoining property owners and neighborhood group listing. |



## Attached Documents / LOJIC Maps



### **Proposed Standard Binding Elements - Docket #9-66-06 V**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The square footage of the development shall not exceed 5,800 square foot of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot and dedicating right-of-way. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.



6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
8. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 15, 2007 Planning Commission meeting.

**All binding elements and/or conditions of approval stated in this report are accepted in total without exception by the entity requesting approval of this (these) development item(s).**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date